

21 C.J.S. Courts § 78

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Courts

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II. Jurisdiction of Courts

F. Scope and Extent of Jurisdiction

§ 78. Ancillary, pendent, supplemental, or incidental jurisdiction

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Courts with jurisdiction of a primary action may exercise ancillary, pendent, supplemental, or incidental jurisdiction over certain related matters.

Generally, courts may exercise ancillary jurisdiction as a power of the court to determine matters incidental to the court's exercise of its primary jurisdiction of an action.¹ Statutory jurisdiction generally carries with it such ancillary jurisdiction as is necessary to fulfill the court's core function.² Ancillary jurisdiction usually involves claims by a defending party brought into court against its will, or by another person whose rights might be lost irretrievably unless the party can assert them in an ongoing action in a court.³ Once a valid claim has been brought and personal jurisdiction established over a party defending a proper claim, courts are justified in asserting personal jurisdiction over the defending party in an ancillary matter if the subject matter of the ancillary claim is sufficiently related to the plaintiff's independent claims, but may decline to do so as an exercise of judicial discretion if the ancillary claim is not closely related, as when it will involve the consideration of a significant number of matters wholly unrelated to the original claim or beyond any strong interest of the state in a matter of foreign law.⁴

Because ancillary proceedings aim to further a principal proceeding, they can only exist by virtue of the main cause of action, and without the main cause of action, they would not be required.⁵ A court having acquired restrictive, derivative jurisdiction in a matter, as an aspect of ancillary jurisdiction, may not extend that jurisdiction beyond the original basis of the acquired jurisdiction once the latter ends by a final disposition in the matter.⁶ When the original basis of the court's jurisdiction is specific and statutory, and not under the state's general statute governing jurisdiction in actions at law, legally and factually unrelated claims by the same plaintiff as a class member against

the same defendant need not be taken as ancillary.⁷ However, even when the dismissal of an action is deemed jurisdictional, a court may determine matters ancillary to the underlying action such as costs and attorney's fees.⁸

Generally, pendent jurisdiction refers to a court's jurisdiction to hear and determine a claim over which it would not otherwise have jurisdiction because the claim arises from the same transaction or occurrence as another claim that is properly before the court,⁹ or out of a common nucleus of operative fact in relation to the principal claim.¹⁰ Pendent jurisdiction, also known as supplemental jurisdiction, typically involves a federal court's exercise of jurisdiction over state law claims brought within the same controversy.¹¹ The court's subject matter jurisdiction of the primary claim may extend to another inextricably tied claim among the parties.¹²

Under the law of some states, the doctrines of ancillary, pendent, or supplemental jurisdiction do not apply in state courts, and a court generally has no authority to exercise such jurisdiction over a statutory claim beyond its exclusive jurisdiction as when it is filed as a compulsory counterclaim.¹³

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Footnotes

¹ Cal.— *State ex rel. Standard Elevator Co. v. West Bay Builders, Inc.*, 197 Cal. App. 4th 963, 130 Cal. Rptr. 3d 99 (1st Dist. 2011).

Neb.—  *Heesch v. Swimtastic Swim School*, 20 Neb. App. 260, 823 N.W.2d 211 (2012).

Discretion to retain jurisdiction

Md.—*Moreland v. Aetna U.S. Healthcare, Inc.*, 152 Md. App. 288, 831 A.2d 1091 (2003).

Ancillary jurisdiction accepted

Conn.— *In re Joshua S.*, 260 Conn. 182, 796 A.2d 1141 (2002).

² N.Y.—*H.M. v. E.T.*, 14 N.Y.3d 521, 904 N.Y.S.2d 285, 930 N.E.2d 206 (2010).

³ Mich.—*People v. Young*, 220 Mich. App. 420, 559 N.W.2d 670 (1996).

⁴ Del.— *Ruggiero v. FuturaGene, plc.*, 948 A.2d 1124 (Del. Ch. 2008).

⁵ Ind.— *Dean v. Weaver*, 928 N.E.2d 254 (Ind. Ct. App. 2010).

⁶ Ind.— *Dean v. Weaver*, 928 N.E.2d 254 (Ind. Ct. App. 2010).

⁷ R.I.—*Park v. Ford Motor Co.*, 928 A.2d 469 (R.I. 2007).

⁸ Cal.— *State ex rel. Standard Elevator Co. v. West Bay Builders, Inc.*, 197 Cal. App. 4th 963, 130 Cal. Rptr. 3d 99 (1st Dist. 2011).

⁹ Kan.—*Rodriguez-Tocker v. Estate of Tocker*, 35 Kan. App. 2d 15, 129 P.3d 586 (2006).

Miss.—*Douglas v. Denbury Onshore, LLC*, 78 So. 3d 912 (Miss. Ct. App. 2011).

- 10 Miss.—[Douglas v. Denbury Onshore, LLC](#), 78 So. 3d 912 (Miss. Ct. App. 2011).
- 11 Kan.—[Rodriguez-Tocker v. Estate of Tocker](#), 35 Kan. App. 2d 15, 129 P.3d 586 (2006).
- 12 N.C.—[Burgess v. Burgess](#), 205 N.C. App. 325, 698 S.E.2d 666 (2010).
- 13 Ala.—[Jackson v. Davis](#), 153 So. 3d 820 (Ala. Civ. App. 2014).

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